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09/385,802	08/30/1999	KEVIN REMINGTON JOSEPH BARTHOLOMEN DONOVAN	4031/1	9671
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/385,802	Applicant(s) BARTHOLOMEN DONOVAN, KEVIN REMINGTON JO	
	Examiner DOHM CHANKONG	Art Unit 2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20, 22, 103, 105-133, 148 and 149 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-20, 22, 103, 105-133, 148 and 149 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/15/2010</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This non-final rejection is in response to Applicant's request for continued examination filed on 2/15/2010. Applicant submitted a declaration of Scott Rader, PhD on 10/6/2009.

Applicant previously cancelled claims 1-15, 21, 23-102, 104, 134-147, 150, and 151.

Accordingly, claims 16-20, 22, 103, 105-133, 148 and 149 are presented for further examination.

I. CONTINUED EXAMINATION UNDER 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/8/2010 has been entered.

II. OATH/DECLARATION

Applicant submitted a declaration of Scott Rader on 10/6/2009. In the declaration, Mr. Rader alleges that he:

“personal tested and successfully operated the invention as set out in Kevin Donovan's Supplemental Declaration, including encrypting instant message communications so as to be communicated between a device of a first user at a first realm of Prodigy (me) and a second device of a second user at a second real of IRC.”

This statement represents the only submission by Applicant to support the limitation for “encrypting an instant message sent between the devices during the instant messaging session.” Because Applicant provides no other evidence or facts to support the limitation, the declaration is insufficient to overcome the rejection of the claims as set forth in the previous Office Action.

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See MPEP § 715.07. If applicant disagrees with the examiner's holding that the facts are insufficient to overcome the rejection, his or her remedy is by appeal from the continued rejection. *Id.*

III. INFORMATION DISCLOSURE STATEMENT

The examiner has considered the information disclosure statement filed on 2/15/2010.

IV. RESPONSE TO ARGUMENTS

Applicant's arguments with respect to claims 16-20, 22, 103, 105-133, 148 and 149 have been considered but are not persuasive because Applicant's declaration is insufficient to overcome the prior art rejection for the reasons detailed in section II above.

V. DOUBLE PATENTING

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

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USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

A. Claims 16, 108, 112, 113, 114, and 118 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 109, and 110 of copending Application No. 10/924,427.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the minor differences between the claims are not novel.

App. No. 09/385802	App. No. 10/924427
Claim 16. A method of conducting an instant messaging session between a first user and a second user over the Internet, the method comprising: associating said first and second users with a first realm and a second realm respectively, each said realm being accessible via the Internet using a protocol characteristic to said realm,	Claim 1. A method of conducting an instant messaging session between a first user and a second user over the Internet, the users being associated with two different realms, each realm being accessible via the Internet using a protocol characteristic to the realm, the method comprising:
each said user getting access to the Internet via one of a respective first and second device, at least one of said first and second devices having a storage media storing the protocol	establishing a communication connection between the first and second users; sending a message substantially instantaneously over the communication connection to the second user

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characteristic of the other realm; establishing a connection between said first and second users using a current IP address and said protocol characteristic of said second user as part of an instant messaging session; and	by using a current IP address and the protocol characteristic to the realm of the second user; and
encrypting an instant message sent between the devices during the instant messaging session.	encrypting the message using a security protocol.

The only differences between the claims are purely cosmetic. Both claims recite a method for conducting an instant messaging session between a first and second user, where the users are associated with a first and second realm, and the realms is associated with a protocol characteristic. Both claims also recite establishing a communication connection between the users and sending an encrypted instant message over the connection.

Similar remarks apply to claims 108, 112, 113, 114, and 118.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

B. Claims 105-107, 109-111, 116, 117, and 119-121 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 97-108 of copending Application No. 10/924,427.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the minor differences between the claims are not novel. The differences between the claims are purely cosmetic and clearly refer to the same subject matter of describing the devices as handheld computers or web TV devices.

C. Claims 125-127, 148, and 149 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2-4 of copending Application No. 10/924,427.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the minor differences between the claims are not novel. The differences

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between the claims are purely cosmetic and clearly refer to the same subject matter of describing the realms as service providers.

D. Claims 128-133 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 25 of copending Application No. 10/924,427.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the minor differences between the claims are not novel. The differences between the claims are purely cosmetic and clearly refer to the same subject matter of describing the determining whether the communication connection between the first and second users is a peer-to-peer connection.

VI. CLAIM REJECTIONS - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 is rejected for lacking proper antecedent basis for the phrase "said step of determining said current IP address."

VII. CLAIM REJECTIONS - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. Claims 16, 108, 114, 118, and 125, 126, 127, and 149 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Walker et al.*, U.S. Patent No. 5.862.333, in view of *Busey et al.*, U.S. Patent No. 7.165.213 [*"Busey"*].

Claim 16

Walker as modified by *Busey* discloses a method of a method of conducting an instant messaging session between a first user and a second user over the Internet [*Walker*, column 26 «lines 40-44»: “real-time text messaging” between end-user and an expert], the method comprising:

associating said first and second with a first realm and a second realm respectively [*Walker*, column 27 «lines 4-8» | column 28 «lines 7-8»: end user and expert may sign on to different online service providers], each realm being accessible via the Internet using a protocol characteristic to the realm [*Busey*, column 5 «lines 11-14»: chat server capable of connecting clients of different protocols including Telnet and IRC], each said user getting access to the Internet via one of a respective first and second device [*Walker*, Fig. 17 «items 1700, 1705: end user connects via AOL, CompuServe, prodigy | column 28 «lines 5-11»: expert connects to an online service in the same manner as end user], at least one of said first and second devices having a storage media storing the protocol characteristic of the other realm [*Busey*, column 15 «lines 18-32»: chat server stores particular protocols used by the client to establish the session]

establishing a connection between said first and second users using a current IP address [*Walker*, column 15 «lines 36-37: internet protocols implies IP address] and said protocol characteristic of said second user as part of an instant messaging session [*Busey*, column 15 «lines 18-32»]; and

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encrypting an instant message sent between the devices during the instant messaging session [*Walker*, column 10 «lines 54-61»: encrypting messages to ensure privacy].

As noted above, while *Walker* discloses that the end-user and expert may sign on to different service providers, *Walker* does not disclose the use of a protocol characteristic and storing the protocol characteristic in a storage media.

However, these features were well known in the art at the time of Applicant's invention as evidenced by *Busey*. *Busey* discloses each realm (i.e., service provider such as AOL, CompuServe, Prodigy as taught in *Walker*) is accessible using a protocol characteristic to determining which protocol is being used by the user. It would have been obvious to one of ordinary skill in the art to have modified *Walker* to include the protocol characteristic taught by *Busey*. Since *Walker* discloses that users may sign into different service providers, the protocol characteristic (which *Busey* uses to determine whether a client is a IRC or telnet client) would be useful to determine which provider *Walker*'s users are signed into.

Claim 108

Claim 108 is rejected for at least the same reasons set forth for claim 16.

Claim 114

Claim 114 is rejected for at least the same reasons set forth for claim 16.

Claim 118

Claim 118 is rejected for at least the same reasons set forth for claim 16.

Claims 125, 126, 127, and 149

Walker as modified by *Busey* discloses said realms comprise Internet service providers [*Walker*, column 27 «lines 4-8»].

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B. Claims 16-20, 22, 103, 105-111, 114-127, and 149 are rejected under 35 U.S.C § 103(a) as being unpatentable over *Auerbach* in view of *Aravamudan* et al, U.S Patent No. 6.301.609 [*“Aravamudan”*], in view of *Gudjonsson*.

All citations are to *Auerbach* unless otherwise expressly noted in the rejection.

Claim 16

Auerbach discloses a method of conducting an instant messaging session between a first user and a second user over the Internet, the method comprising:

associating said first and second with a first realm and a second realm respectively [column 2 «lines 9-15» : different users, different service providers], each realm being accessible via the Internet using a protocol characteristic to the realm (col. 2, lines 19-28), each said user getting access to the Internet via one of a respective first and second device (fig. 3, client 102), at least one of said first and second devices having a storage media storing the protocol characteristic of the other realm (see fig. 3, protocol services 130 and 132);

establishing a connection between said first and second users [column 7 «line 65» to column 8 «line 27»], using a current IP address and said protocol characteristic of said second user as part of an instant messaging session [*Aravanudan*, column 9 «lines 45-57» | column 11 «lines 8-45»]; and

encrypting an instant message sent between the devices during the instant messaging session [*Gudjonsson*, column 2 «lines 16-23» | column 11 «lines 38-43» where: *Gudjonsson*'s servers are interpreted as Applicant's "devices"].

While *Auerbach* discloses the user logging on to the primary service provider using

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established logon procedures, and *Auerbach* does not specifically disclose the steps of (1) establishing a connection between the first and second users using a current IP address and the protocol characteristic of said second user and (2) encrypting instant messages.

1. *Auerbach* implicitly and *Aravamudan* expressly discloses using an IP address and protocol characteristic for establishing a connection between the users.

As discussed previously, the use of IP addresses to connect network users is implicit in *Auerbach*. *Auerbach* clearly discloses establishing network sessions between the users through his conversion platform; the platform would necessarily need to know the IP addresses of each user to do so. Further, *Auerbach* discloses establishing sessions based on the email addresses of users [column 1 «lines 46-61»]. It is well known in the art that email addresses are inherently tied to IP addresses.

Moreover, in the same field of invention, *Aravamudan* discloses establishing a connection between said first and second users using said current IP address and said protocol characteristic as part of an instant messaging session. It would have been obvious to one of ordinary skill in the art to have reasonably inferred that *Auerbach*'s sessions were established using a user's IP address based on *Aravamudan*'s express teaching since IP addresses were well known in the art for identifying user computers.

2. *Gudjonsson* discloses encrypting instant messages between users during an instant messaging session.

Auerbach does not expressly disclose encrypting instant messages. In a related field of invention *Gudjonsson* is directed towards establishing communication sessions between users over a variety of networks. *Gudjonsson* discloses encrypting an instant message during the instant message session. It would have been obvious to one of ordinary skill in the art to

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incorporate encryption services into *Auerbach*'s communication system for the desirable function of having secured transmissions of network messages between users.

Claim 17

Auerbach as modified by *Aravamudan* discloses sending a message to the IM database indicating the corresponding user is online [*Aravamudan*, column 9 «line 64» to column 10 «line 15»].

It would have been obvious to modify *Auerbach*'s to include the steps of sending a message to an IM database indicating the corresponding user is online in order to more accurately track user relationships and maintain knowledge of the users and processes on the system. Therefore, the limitations would have been an obvious modification *Auerbach*'s system.

Similar motivation applies to claims 18-20.

Claim 18

Auerbach as modified by *Aravamudan* discloses retrieving said address form said IM database [*Aravamudan*, column 5 «lines 25-31» | column 6 «lines 18-31» | column 9 «lines 49-57»].

Claim 19

Auerbach as modified by *Aravamudan* discloses sending a connection request from the first to the second device for establishing said instant messaging session [*Aravamudan*, column 9 «lines 10-22»].

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Claim 20

Auerbach as modified by *Aravamudan* discloses generating a response to said connection request by said second device accepting said connection request [*Aravamudan*, column 9 «lines 10-22» | column 10 «lines 37-44» | column 11 «lines 35-45»].

Claim 22

Auerbach discloses displaying a window on the screen of the first and second devices, the window indicating a list of active users (see Fig 4B).

Claim 103

Auerbach as modified by *Aravamudan* discloses displaying a window with a message area, said message area being used to indicate messages between said users [column 10 «lines 37-41»].

Claims 105-107, 109-111, 115-117, and 119-121

Auerbach discloses a handheld and palmtop computer [column 3 «lines 32-37»] and a WebTV device [column 3 «lines 32-37» : “consumer electronics”].

Claim 108

Auerbach discloses a method of conducting an instant messaging session, the method comprising:

establishing an instant messaging session over an Internet protocol network between a first user device and a second user device [column 1 «lines 46-61»], each of the user devices correspond to a user name [Figures 4A, 4B.], each of the user names correspond to a different realm [column 2 «lines 26-32»] , each of the user devices having an Internet Protocol address in the realm corresponding to the user name [Figure 4B | column 2 «lines 26-32»].

Auerbach does not expressly disclose (1) each said user device having an Internet protocol address in the realm corresponding to the user name and (2) encrypting instant messages. See the rejection of claim 16 for reasons to combine *Auerbach*, *Aravamudan*, and *Gudjonsson*.

Claim 114

Auerbach as modified by *Aravamudan* and *Gudjonsson* discloses an instant message communications apparatus comprising:

a first user device connected to an Internet Protocol network, the first user device associated with a first Internet Protocol address, a first user name, and a first realm [*Auerbach*, abstract: "individuals...may be subscribers to different service providers" & *Aravamudan*, Fig. 5 «item 236»: disclosing user address];

a second user device connected to the Internet Protocol network, the second user device associated with a second Internet Protocol address, a second user name, and a second realm [*Auerbach*, abstract: "individuals...may be subscribers to different service providers" & *Aravamudan*, Fig. 5 «item 236»: disclosing user address];

a database storing realm protocols connected to at least one of the first user device and the second user device [*Auerbach*, Fig. 3 «item 112»: conversion protocol containing SP1 and SP2 protocol services];

the first user device connected to the second user device with a suitable instant messaging protocol communicates an encrypted instant message between the first user device in the first realm and second user device in the second realm over the connection [*Gudjonsson*, column 2

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«lines 16-23» | column 11 «lines 38-43» where: *Gudjonsson*'s servers are interpreted as Applicant's "devices"]; and

a display screen of each of the first and second user devices displays the instant message [Fig. 1 «item 36»].

See rejection of claim 16 for reasons to combine *Auerbach*, *Aravamudan*, and *Gudjonsson*.

Claim 118

As to claim 118, as it does not teach or further define over the previously claimed limitations it is similarly rejected for at least the same reasons set forth above for claims 108 and 112.

Claims 122 and 125

Auerbach as modified by *Aravamudan* and *Gudjonsson* discloses said the first user device associated with the first realm is connected to the second user device associated with the second realm wherein the first realm includes a first protocol characteristic, the second realm includes a second protocol characteristic, and wherein said first protocol characteristic is different from said second protocol characteristic [column 13 «line 49» to column 14 «line 8»].

Claim 123

Claim 123 is rejected for at least the same reasons set forth for claim 17.

Claim 124

Claim 124 is rejected for at least the same reasons set forth for claim 22.

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Claims 125-127

Auerbach as modified by *Aravamudan* and *Gudjonsson* discloses a portal instant messaging provider and a general instant messaging provider (i.e., service providers) [column 5 «lines 11-37»].

Claim 148

Auerbach does not expressly disclose a service provider providing Internet telephone service. *Aravamudan* discloses an internet service provider providing Internet telephone service and establishing a connection with an Internet service provider that provides Internet telephone service [column 3 «lines 26-66» : “Internet Protocol (IP) telephony” | column 4 «lines 6-25»]. It would have been obvious to one of ordinary skill in the art to incorporate IP telephony devices and service providers into *Auerbach*’s unified messaging system as IP telephony and telephony service providers were well known at the time of *Auerbach*’s invention [see *Aravamudan*, column 1 «lines 37-39»]. One would have been motivated to provide such a combination so as to increase the functionality of *Auerbach*’s system.

Claim 149

Auerbach discloses said realms comprise Internet service providers [abstract].

B. Claims 112 and 113 are rejected under 35 U.S.C § 103(a) as being unpatentable over *Auerbach et al.*, U.S. Patent No. 6.549.937 [*"Auerbach"*] in view of *Gudjonsson et al.*, U.S Patent No. 6.564.261 [*"Gudjonsson"*].

Claim 112

Auerbach as modified by *Gudjonsson* discloses a method of conducting an instant messaging session between a first user device and a second user device over the Internet, the method comprising the steps of:

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retrieving an instant messaging protocol suitable for communications with the second user from a database accessible to the first user [Figure 2 «item 112» | column 5 «lines 27-37» | column 7 «lines 10-28» where : *Auerbach*'s conversion platform 112 reads on Applicant's claimed database];

establishing a connection from the first user device to the second user device with the suitable instant messaging protocol as part of an instant messaging session [column 7 «line 65» to column 8 «line 40»]; and

encrypting an instant message communication between a first user device and the second user device during the instant message session [*Gudjonsson*, column 2 «lines 16-23» | column 11 «lines 38-43» where: *Gudjonsson*'s servers are interpreted as Applicant's "devices"].

Claim 113

Auerbach as modified by *Gudjonsson* discloses a method of conducting an instant messaging session between a first user device and a second user device over the Internet, the method comprising the steps of:

retrieving one of a plurality of instant messaging protocols that is suitable for communications with the second user device from a database accessible to the first user device [Figure 2 «item 112» | column 5 «lines 27-37» | column 7 «lines 10-28» where : *Auerbach*'s conversion platform 112 reads on Applicant's claimed database];

establishing a connection between the first user device and the second user device with the retrieved suitable instant messaging protocol [column 7 «line 65» to column 8 «line 40»];

encrypting an instant message communication between the first user device and the second user device during an instant message session using the suitable instant messaging

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protocol [*Gudjonsson*, column 2 «lines 16-23» | column 11 «lines 38-43» where: *Gudjonsson*'s servers are interpreted as Applicant's "devices"]; and

displaying an instant message from the first user device to the second user device using the suitable instant messaging protocol [column 7 «line 65» to column 8 «line 40»].

C. Claims 128-133 are rejected under 35 U.S.C §103(a) as being unpatentable over *Auerbach*, *Aravamudan*, and *Gudjonsson*, in further view of *DeSimone et al*, U.S Patent No. 6.212.548 [*"DeSimone"*].

Auerbach does not teach peer-to-peer connections but does teach that the invention may be practiced in "distributed computing environments." *DeSimone* discloses establishing peer-to-peer connections for instant messaging [Figure 2B | Figure 3 | column 4 «line 57» to column 5 «line 5»]. It would have been obvious to incorporate peer-to-peer methodology into *Auerbach*'s instant messaging system as taught by *DeSimone*. One would have been motivated to provide such a combination as peer-to-peer messaging reduces burden on servers [see *DeSimone*, abstract].

VIII. CONCLUSION

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday to Friday [10 am - 6 pm].

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571)272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOHM CHANKONG/
Primary Examiner, Art Unit 2452